

APPEAL NO. 010067

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On December 18, 2000, a hearing was held. The hearing officer decided that the respondent (claimant) had sustained a compensable injury (a lateral meniscus tear of the right knee) on _____. The appellant (carrier) asserts that the hearing officer's decision is against the great weight of the evidence and requests that we reverse and render a new decision in its favor. There is no response in the file from the claimant.

DECISION

We affirm the hearing officer's decision and order.

There is little or no dispute that the claimant was involved in an incident at work on _____, and reported knee pain to the company nurse and his supervisor after the incident. The carrier, however, asserts that the incident did not cause a lateral meniscus tear in the claimant's right knee, but, rather, that the claimant sustained the meniscus tear while playing basketball or engaging in some other activity outside of work.

There was conflicting evidence presented at the hearing. Based upon the claimant's testimony and the opinion of the claimant's doctor that the claimant's history of the work-related incident was consistent with the complex tear of the lateral meniscus, the hearing officer found that the claimant did sustain a compensable injury, with a diagnosis of a lateral meniscus tear, in the course and scope of his employment on _____. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

The hearing officer's decision and order are affirmed.

Kenneth A. Huchton
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge